

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

NANCY ALEJANDRA ZUNIGA AND  
CLAUDIA ELIZABETH ZUNIGA  
*Plaintiffs*

V.

KENNETH WADE JACKSON AND  
AMERICAN TRANSPORT, INC.  
*Defendants*

~~~~~

CIVIL ACTION NO. \_\_\_\_\_  
JURY DEMANDED \_\_\_\_\_

1:17-cv-149

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1332, Defendants KENNETH WADE JACKSON and AMERICAN TRANSPORT, INC. hereby gives notice of the removal of this cause of action to the United States District Court for the Southern District of Texas (Brownsville Division). Defendant state as grounds for removal that:

## PROCEDURAL STATUS OF THE CASE

1. Plaintiff, filed this action in the 138<sup>th</sup> Judicial District Court of Cameron County, Texas on November 18, 2016. It carries the case style of Cause No. 2016-DCL-07680; *Nancy Alejandra Zuniga and Claudia Elizabeth Zuniga v. Kenneth Wade Jackson and American Transport, Inc.*; In the 138<sup>th</sup> Judicial District Court of Cameron County, Texas

2. Defendant Kenneth Wade Jackson was served with process on June 29, 2017.
3. Defendant American Transport, Inc. has not yet been served with process.
4. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* U.S.C. § 1446(a).

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Southern District of Texas (Brownsville Division).

6. Defendants will promptly file a copy of this Notice of Removal with the Cameron County, Texas, District Clerk.

#### BACKGROUND

7. This case arises out of a motor vehicle accident that occurred on October 26, 2015 in Cameron County, Texas. Plaintiff claims Defendant Kenneth Wade Jackson was driving a tractor/trailer rig and was working for American Transport when the accident occurred.

8. Plaintiff's Original Petition seeks relief exceeding \$200,000. (Orig. Pet. ¶2.)

9. Plaintiff has sued Defendants alleging various theories of negligence, (Orig. Pet., ¶¶10-18).

#### BASIS FOR FEDERAL COURT ORIGINAL JURISDICTION

10. Complete diversity exists between Plaintiff and Defendants. Plaintiff's petition admits that Plaintiffs are residents of Cameron, Cameron County, Texas. Orig. Pet. ¶¶ 3-4.

11. Plaintiffs' petition correctly states that American Transport Inc. is a Pennsylvania Corporation. Orig. Pet. ¶6. Defendant avers that American Transport, Inc.'s principle place of business is not Texas.

12. Plaintiffs' petition correctly states Kenneth Wade Jackson resides and is domiciled in North Carolina. Orig. Pet. ¶5.

#### PROPRIETY OF REMOVAL

13. This Notice of Removal is timely because it is filed within thirty (30) days of Defendants' receipt of the Original Petition, in accordance with 28 U.S.C. § 1446(b).

14. All Defendants have consented to removal.

15. Removal is not barred by 28 U.S.C. § 1445.

16. Pursuant to 28 U.S.C. § 1446(a), Defendants, American Transport, Inc. and Kenneth Wade Jackson, have attached hereto: the Citation to Kenneth Wade Jackson as **Exhibit A**, a copy of the Citation to American Transport, Inc. as **Exhibit B**; a copy of the Return of Service for Defendant, Kenneth Wade Jackson as **Exhibit C**; a certified copy of Plaintiff's Original Petition, Requests for Disclosure, Request for Production and Interrogatories as **Exhibit D**; a certified copy of Defendants American Transport, Inc. and Kenneth Wade Jackson's Original Answer, Request for Disclosures and Jury Demand as **Exhibit E**; a copy of Plaintiff, Claudia Trevino's Notice of Non-Suit as **Exhibit F** (NOTE: We will supplement with certified copy once it is received); a copy of the Proposed Order on Plaintiff, Claudia Trevino's Notice of Non-Suit as **Exhibit G** (NOTE: We will supplement with certified copy once it is received). A copy of the Court's Docket Sheet as **Exhibit H** (NOTE: We will supplement with certified copy once it is received); a List of Exhibits being filed as **Exhibit I**; and a list of All Parties as **Exhibit J**. At the time of filing, there were no orders signed by the state judge.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

22. If Plaintiff contests this removal, Defendants request:
- (a) a hearing regarding this Court's jurisdiction over, and the propriety of removal of this matter; and
  - (b) leave to conduct limited discovery related to issues surrounding the existence of diversity jurisdiction.

JURY DEMAND

23. Defendants demand a jury trial.

WHEREFORE, AMERICAN TRANSPORT, INC. AND KENNETH WADE JACKSON removes the above captioned action from the 138<sup>th</sup> Judicial District Court of Cameron County, Texas to the United States District Court for the Southern District of Texas, (Brownsville Division).

Respectfully submitted,

**BAIRHILTY, P.C.**

*/s/ Ronald L. Bair*

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**ATTORNEY FOR DEFENDANT,  
AMERICAN TRANSPORT, INC. AND  
KENNETH WADE JACKSON**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per E. Dist. Tex. Loc. R. CV-5(3) on the 26<sup>th</sup> day of July, 2017. A true and correct copy of the foregoing Defendants Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this the 26<sup>th</sup> day of July, 2017.

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/s/ Ronald L. Bair  
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